CITY PLANNING COMMISSION SPECIAL MEETING
AGENDA
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
11:30 A.M.
APRIL 27, 2015

I. ROLL CALL

1. Amendment to the Unified Development Ordinance (Mobile Food Trucks)

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Printed on 100% Recycled Paper

INTEROFFICE MEMORANDUM

TO: PLANNING COMMISSION
FROM: WALLY BAILEY
SUBJECT: DRAFT OUTDOOR MOBILE VENDING ORDINANCE
DATE: APRIL 24, 2015

Attached is the current draft of the outdoor mobile vending ordinance for your review. This will be the copy used for the special planning commission meeting on Monday, April 27th.

The changes from the previous draft are highlighted for your review. The changes represent the discussion and recommendations at the April 14th meeting and a few additional items. We did not highlight all the formatting changes.

The significant changes include the following:

*We corrected some format issues with indentation and numbering/lettering.

*On page 2 and page 8 we clarified that the exemption for non-profits were when they were associated with a festival or special event.

*On page 4/5 and page11 the insurance requirements have changed. After you asked us to review the insurance requirements we asked the city attorney, city finance department, and the city insurance carrier for their advice on this subject. The information included in the draft is the recommendation received.

*On page 6 to consolidate the two separate appeals section this appeals section references the appeals section in Section 27-___(J).

*A change to some definitions on page 7 to use the word designated instead of fixed.

*The city collections department asked if we could change the annual permit to a January to December permit. Page 10 and page 13 reflect some date changes to reflect the request.

*An editorial change on page 17 to clarify the timing for an appeal to be processed.

Please review the current draft for our discussion on Monday. Let me know if we need to provide you with more information or if you have any questions.

DRAFT OUTDOOR MOBILE VENDING ORDINANCE

27-_____ Sidewalk Vending

A. Definitions.

For purposes of this article, the following definitions shall apply:

Central Business District shall mean the following:

Parts of Sections 4, 5, 8, 9, 16, and 17, Township 8 North, Range 32 West, Sebastian County, Arkansas being more particularly described as follows:

All of the following parts of the Fitzgerald Addition to the City of Fort Smith: Blocks: A, B, K, 1, 2, 3, 7, 8, 9, 10, 58A, 62, and 65; and the East Half of Blocks: 66, 67, 68; and the West Half of Blocks: C, D, E, F, 50, 61 and 94.

All of the following parts to the Original City of Fort Smith: Blocks: A, 1, 2, 3, 4, 7, 8, 9, 10, 15, 16, 17, 18, 23, 24, 25, 26, 29, 30, 48, 49, 50 and 51.

All of the following parts to the Reserve Addition of the City of Fort Smith: Blocks: 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 512, 513, 514, 515, 516, 517, 518A, 519, 521, 522, 523, 524, 525, 526, 529, 530, 531, 532, 533, 536, 541, 542, 543, 544, 545, 546, 547, 548, 561, 562, 563, 564, 565 and 566; and the East Half of Blocks 549, 560, 567.

All of the following additions to the City of Fort Smith: Sparks Regional Medical Center Lots 1 and 2, Southside Garrison Avenue Addition, Corrected Stuart Daniels Addition, Shipley Addition 1, Kremer's Addition and ARS Addition Lots 2 and 3.

All properties contiguous (to the extent of the initial platted lot or, if not platted, legal ownership contiguous to the street Right-of-Way) to the West side of Towson Avenue between Dodson Avenue and South "D" Street.

All properties contiguous (to the extent of the initial platted lot or, if not platted, legal ownership contiguous to the street Right-of-Way) to the South side of South "D" Street between Wheeler Avenue and Towson Avenue.

All properties contiguous (to the extent of the initial platted lot or, if not platted, legal ownership contiguous to the street Right-of-Way) to the North side of North "B" Street between Clayton Expressway and North 11th Street.

Also,

A Tract of Land between the Eastern Bank of Maximum Recession of the Arkansas River and the East Right-of-Way line of Clayton Expressway running from the South Right-of-Way line of Garrison Avenue Northeasterly to a line 1950 feet more or less, South of and parallel to the North line of Section 5, Township 8 North, Range 32 West, Sebastian County, Arkansas.

Stand shall mean any table, showcase, rack, pushcart, wagon or other wheeled vehicle or device which is hand pushed or pulled, without the assistance of a motor vehicle or other source of power, used for the displaying, storing or transporting of products offered for sale by a vendor.

Vendor shall mean any person engaged in the selling or offering for sale of food or beverages or art or crafts or other products on the public sidewalks from a stand.

(Code 1976, § 21-11; Ord. No. 54-87, § 2, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

B. Exemptions.

Temporary sales for non-profit entities that operate for less than five (5) consecutive days as part of a festival or special event shall be exempt from sidewalk vending regulations.

C. Findings and purpose.

It is found and declared that:

1. The primary purpose of public sidewalks is for use by pedestrian traffic.
2. Vending on the downtown public sidewalks promotes the public interest by contributing to an active and attractive pedestrian environment.
3. Reasonable regulation of sidewalk vending is necessary to protect the public health, safety and welfare.

(Code 1976, § 21-10; Ord. No. 54-87, § 1, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

D. Prohibited conduct.

No vendor shall:

1. Vend within one hundred (100) feet of any church assembly place while an assembly of the church is in session.
2. Vend on any sidewalks where vending is otherwise prohibited.

3. Leave any stand unattended.

4. Store, park or leave any stand overnight on any street or sidewalk.

5. Sell food or beverages for immediate consumption, unless there is a litter receptacle available within twenty (20) feet of the vending stand for public use.

6. Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales.

7. Place any items relating to the operation of the vending business anywhere other than in, on or under the stand.

8. Set up, maintain or permit the use of any table, crate, carton, rack or any other device to increase the selling or display capacity of his stand.

9. Solicit or conduct business with persons in motor vehicles.

10. Sell anything other than that which such vendor is licensed to vend.

11. Vend at any location where the sidewalk is not over five (5) feet in width.

12. Vend within fifteen (15) feet of an entrance way to any building unless written permission is provided by the property owner.

13. Vend within twenty-five (25) feet of any driveway entrance.

14. Vend within ten (10) feet of the crosswalk at the intersection.

(Code 1976, § 21-15; Ord. No. 54-87, § 6, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

E. Vendor stand specifications.

1. No stand shall exceed eight (8) feet in length, and all stands shall have a width compatible with that of a standard cart design.

2. The height of each stand may be determined by the design needs of the vendor's product, but in no case shall it be greater than six (6) feet.

3. All lettering shall be of constant height with smooth-painted edges having not more than one-eighth-inch variation.

4. No advertising shall be permitted on any stand, except to identify the name of the product and the name of the vendor and a posting of prices.

(Code 1976, § 21-16; Ord. No. 54-87, § 7, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

F. PERMIT. Required; display; fee; renewal.

1. Required. It shall be unlawful to sell or offer for sale any food or beverage or art or craft or any other product on any public sidewalk within the city without first obtaining a permit from the city.

2. Display. All city-required permits shall be displayed on the cart at all times.

3. Fee. A permit fee shall be required for a one-year permit in the amount of $150.00.

4. Renewal. All permits are valid for the entire approved one-year period, unless revoked or suspended by the city prior to expiration. An application to renew a permit shall be made no later than thirty (30) days before the expiration of the current permit.

(Code 1976, § 21-12; Ord. No. 54-87, §§ 3, 8—11, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

G. Applications.

1. Applications shall contain the following information:

   (a) The name, home and business address of the applicant and the name and address of the owner, if other than the applicant of the vending business.

   (b) A description of the type of food or beverage or art or craft or of any other product proposed for vending.

   (c) A description of the proposed location(s) and hours of operation.

   (d) A description and photograph of the stand to be used.

   (e) Certification by the city/county health department for food and/or beverage sales.

   (f) Proof of a insurance policy, issued by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damages to property and bodily injury including death, which may arise from operations under or in connection with the license. Such insurance shall provide that the policy shall not terminate or be cancelled prior to the expiration date without thirty (30) days' advance written notice to the city administrator. The vendor shall obtain Commercial General Liability insurance

on an occurrence basis with limits of not less than $1,000,000 each occurrence, $1,000,000 personal and advertising injury, $2,000,000 products and completed operations aggregate, $2,000,000 general aggregate and $5,000 expense (any one person). The policy shall name the City of Fort Smith as Primary Additional Insured and include ISO forms CG2010 and CG2037 (or equivalent endorsements).

Vendor shall also provide evidence that ISO endorsement Products/Completed Operations Hazard Redefined-Changes (CG2407) has been added to the policy. Waiver of Subrogation shall apply in favor of the City of Fort Smith.

The policy shall include a statement that the vendor/insured shall hold the City harmless from and indemnify the city for all expenses, losses, cost, causes of action and judgments, including legal expense, arising from the vendor's/insured's' operations.

~~Minimum liability limits per occurrence of not less than $1,000,000 per occurrence hundred thousand dollars ($100,000.00) per person and three hundred thousand dollars ($300,000.00) per occurrence and fifty thousand dollars ($50,000.00) for property damage shall be provided by such policy.~~

(g) ~~List of, and approval from, all business owners or operators within fifty (50) feet of the stand location.~~

2. Applications shall be filed with the planning department of the city.

(Code 1976, § 21-13; Ord. No. 54-87, § 4, 7-7-87; Ord. No. 70-08, § 1, 11-18-08)

H. Issuance; denial, suspension and revocation; appeal.

1. Issuance of permit. No later than fifteen (15) days after the filing of a completed application for a vendor's permit the applicant shall be notified by the planning department of the decision on the issuance or denial of the license.

2. Denial, suspension and revocation. Any permit may be denied, suspended or revoked by the city for any of the following causes:

(a) Fraud or misrepresentation contained in the application for the permit.

(b) Fraud or misrepresentation made in the course of carrying on the business of vending.

(c) Conduct of the permitted business in such manner as to create a public nuisance or constitute a danger to the public health, safety, welfare or morals.

(d) Conduct of the vendor which is contrary to the provisions of this division.

(e)The proposed sale of food or beverages or art or crafts or other products inappropriate or incompatible with standards promulgated by the central business improvement district commission.

I. Appeals of Administrative Determinations.

The Planning Commission shall hear appeals from the Director's decision in respect to the enforcement and application of this Chapter, and may affirm or reserve in whole or in part the decision of the Director in accordance with Section 27-____(J) Appeals of Administrative Determinations.

~~1. Process. Any person, officer of the City, or other governmental agency not in agreement with a decision made by the director may appeal the decision within 10 (ten) 30 days of the decision by filing with the Director a notice of appeal along with payment of the required appeal fee. The filing shall specify the reason for the appeal. The Director shall then transmit to the Planning Commission all the information on the details of the decision and reason for the appeal. This shall be done in advance of the next regularly scheduled meeting. that is more than 30 days from the date of the appeal.~~

~~2. Stay. An appeal puts all processing of applications on hold until the appeal process is completed.~~

~~3. Hearing. The Planning Commission shall schedule a reasonable time for the hearing of the appeal or any other matter referred to it. Notice shall be published one (1) time in a local newspaper fifteen (15) days before the public hearing.~~

~~4. Action. In exercising its powers, the Planning Commission, inconformity with the provisions of law, may reserve or affirm, wholly or in part, or may modify the order, requirement, decision, or determination.~~

~~5. Appeals. Appeals from the decision of the Planning Commission shall be made to the Board of Directors within ten (10) days of the Planning Commission's decision.~~

J. Forfeiture of Fee. If the City revokes a vendor permit, the fee already paid for the permit shall be forfeited.

27-_____Outdoor Mobile Food Vending

The purpose of this chapter is to promote and encourage open-air retail environments, while preserving and protecting the health, safety and welfare of citizens through regulations that promote opportunities and management of such enterprises.

A. Definitions.

Angled parking space shall mean a parking space that is on a geometric angle to the street curb.

Edible goods shall include, but are not limited to prepackaged and prepared foods, excluding the sales of alcoholic beverages.

Food service establishment shall mean businesses that sell edible goods and have been inspected and approved by the Sebastian County Health Department and the City of Fort Smith.

Mobile shall mean the state of being active, but not necessarily continuous, movement.

Mobile food court shall mean a site that contains more than one mobile food vendor on a regular basis as the principal use of the land.

Mobile food vendor shall mean any person(s) who owns or operates a mobile food vehicle for the purpose of mobile food vending.

Mobile food vendor, private property shall mean any person(s) who exhibits, displays, or sells any food or beverage from a mobile food vehicle at a ~~fixed~~ designated location on private property.

Mobile food vendor, public street right-of-way shall mean any person(s) who exhibits, displays, or sells any food or beverage from a mobile food vehicle at a ~~fixed~~ designated location on the public street right-of-way.

Mobile food vehicle shall include, but not be limited to:

(a) **Mobile food truck**: A self contained motorized unit selling items defined as edible goods.

(b) **Concession trailers**: A vending unit which is pulled by a motorized unit and has no power to move on its own.

Parallel Parking Space shall mean a parking space that is adjacent to the curb the full length of the parking space.

Sell shall mean the act of exchanging a food for a profit or in return for a donation.

Stationary location shall mean the position of the mobile food vendor when not in motion and addressing the public for the purpose of sales.

Temporary building shall mean a structure not exceeding 160 s.f. used to vend edible foods and that is not permanently affixed to the ground, or on blocks, etc.

Tow Vehicle – A motorized land vehicle.

B. Exemptions

1. An approved Farmers Market;
2. Temporary sales for non-profit entities that operate for less than five (5) consecutive days as part of a festival or special event shall be exempt from sidewalk vending regulations.
3. Children's lemonade stands.

C. Outdoor Mobile Food Vendors Located on Private Property

The purpose of this section is to facilitate and control the ability of mobile food vendors and mobile food courts to operate on private property while ensuring such uses are compatible with nearby properties, fosters an aesthetically appealing streetscape, and does not create a dangerous traffic condition.

1. **Single Vendor**

   a. **Zoning Districts**. Outdoor mobile food vendors shall be permitted on private property in C-2 through C-6 commercial zoning districts and I-1 and I-2 industrial zoning districts. Outdoor mobile food vendors are prohibited in residential zoning districts.

   b. **Number of Vendors.** Only one (1) mobile food vendor shall be permitted per lot. However, if a lot has multiple street frontages, vendors may operate on the lot provided there is only one mobile food

vendor proposed per street frontage. Otherwise, all proposed multiple mobile food vendors on a single lot shall be considered a Mobile Food Court and shall comply with the requirements for Mobile Food Courts below.

c. **Permission required.** Outdoor mobile food vendors shall first obtain written permission from the property owner prior to submitting an application.

2. **Mobile Food Courts**

a. **Zoning Districts.** Mobile food courts shall be permitted as a conditional use in C-2 through C-6 and I-1 and I-2 industrial zoning districts. Outdoor mobile food courts are prohibited in residential zoning districts.

b. **Review Criteria.** A property owner, or agent, proposing a mobile food court shall submit an application for a Conditional Use Permit to the Planning Department. The Planning Commission will review the overall compatibility of the planned semi-permanent use with the surrounding property as well as such specific items as screening, parking and landscaping to make sure that no harmful effects occur to nearby property. The property owner, or agent, proposing a mobile food court may also be required to provide any of the following improvements to the property:

i. Improvements necessary to provide permanent utility connections for each mobile vending unit location in the mobile food court. This may include permanent water, sanitary sewer and electricity connections.

ii. Improvements necessary to ensure safe pedestrian and vehicular access to the site.

iii. Off-street parking improvements in compliance with Section 27-601 of the Unified Development Ordinance.

iv. A minimum of 1 ½ spaces off-street parking spaces provided for each vending unit in the mobile food court. The number of parking spaces shall be rounded to the next higher whole number when the fraction is 0.5 or higher. Mobile food

courts in the C-6 zoning district are exempt from the off-street parking requirements.

v. Provide adequate restrooms facilities on site or through the provision of a shared use agreement with a neighboring business for access to restroom facilities.

c. **Permit Requirements.** Individual mobile food vendors within a mobile food court shall comply with the permitting requirements in Section E – Mobile Food Vendor Permit Requirements – Private Property. The mobile food court owner/operator shall not pay an annual permit fee, but shall maintain a current business license. The owner/operator shall also provide the following information:

i. Name, address, and contact information of the individual mobile food vendors operating in the mobile food court.

ii. Name, address, and contact information of the mobile food court operator and/or owner.

D. **Public Street Right-of-Way.** Outdoor mobile food vending on public street right-of-way shall be permitted only within the Commercial Downtown (C-6) zoning district.

1. **Permit requirements.** Mobile food vendors are allowed to operate on public street rights-of-way within the Commercial Downtown (C-6) with the following requirements.

a. Each application for a permit to conduct a mobile food vendor business on a public street right-of-way shall be accompanied with a permit and processing fee of $150.00. Permits issued after June 30th ~~September 30th~~ shall be accompanied with a permit and processing fee of $75.00. Mobile food vendor permits shall be issued to the owner of the mobile food vendor vehicle. All permits shall expire ~~March 31st~~ December 31.

b. Submit name, address, contact information and signature of the mobile food vendor requesting to locate within a public street right-of-way.

c. Submit a scaled drawing, photo, or written documentation verifying the dimensions of the conveyance.

d. The mobile food vendor has the responsibility to dispose of all wastes in accordance with all applicable laws. Mobile food vendors are not permitted to dispose of their trash in public trash receptacles.

e. The mobile food vendor shall be permitted to conduct business in parallel parking spaces only.

f. Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damages to property and bodily injury including death, which may arise from operations under or in connection with the license. Such insurance shall provide that the policy shall not terminate or be cancelled prior to the expiration date without thirty (30) days' advance notice to the city administrator.

The vendor shall obtain Commercial General Liability insurance on an occurrence basis with limits of not less than $1,000,000 each occurrence, $1,000,000 personal and advertising injury, $2,000,000 products and completed operations aggregate, $2,000,000 general aggregate and $5,000 expense (any one person). The policy shall name the City of Fort Smith as Primary Additional Insured and include ISO forms CG2010 and CG2037 (or equivalent endorsements).

Vendor shall also provide evidence that ISO endorsement Products/Completed Operations Hazard Redefined-Changes (CG2407) has been added to the policy. Waiver of Subrogation shall apply in favor of the City of Fort Smith.

The policy shall include a statement that the vendor/insured shall hold the City harmless from and indemnify the city for all expenses, losses, cost, causes of action and judgments, including legal expense, arising from the vendor's/insured's' operations.

~~g. Minimum liability limits per occurrence of not less than $1,000,000 per occurrence hundred thousand dollars ($100,000.00) per person and three hundred thousand dollars ($300,000.00) per occurrence and fifty thousand dollars ($50,000.00) for property damage shall be provided by such policy.~~

2. The mobile food vendor shall occupy only one parallel parking space. If the mobile food vendor is utilizing a concession trailer, two parallel parking spaces can be utilized provided the mobile food vehicle is connected to a tow vehicle at all times.

3. Location Restrictions. No vendor within the Commercial Downtown (C-6) zoning district on public right-of-way shall be permitted to operate in the following areas:

a. Within 10 feet of any street intersection or pedestrian crosswalk.

b. Within 10 feet of any driveway, loading zone or bus stop.

c. Within 10 feet of any fire hydrant or fire escape.

d. Within 10 feet of any parking space or access ramp designated for persons with disabilities

e. Angled on-street parking spaces.

f. Within 50 feet of a driveway to police or fire station.

g. Within 50 feet of the principal public entrance to a food service establishment not owned by mobile food vendor, unless written permission has been given by the food service establishment, or the food service establishment is closed for business.

h. Any area that obstructs pedestrian traffic.

i. No customer shall be served on the street side of the mobile unit. All service must occur on curb side when the mobile unit is abutting a public street.

j. No drive thru or drive-by customer service shall be provided or permitted as part of a mobile food vendor business.

k. No mobile food vendor shall conduct business so as to violate any ordinances of the city regulating traffic and rights-of-way now in effect or hereafter amended.

l. No seating or signage shall be provided or permitted in a street right-of-way or public sidewalk as part of a mobile food vendor business.

m. No mobile food vendor shall sell or vend from his/her vehicle within 300 feet of a public or private school property while school is in session and one hour before and after school is in session; classes or school related events, except when authorized in writing by the school.

n. In the public street right-of-way on the designated truck route.

o. In the public street right-of-way of a state highway (Garrison Avenue, Towson Avenue, Rogers Avenue (east of Towson Avenue), North 10th Street, and North 11th Street).

p. In any parallel parking space that is designated as reserved.

4. **Hours of Operation**. Outdoor mobile food vending on public street rights-of-way within the Commercial Downtown (C-6) zoning district shall be allowed to engage in the business of mobile food vending only between the hours of 9:00 pm and 2:00 a.m. Mobile food vending vehicles shall be removed from the public street right-of-way when not in use.

E. Mobile Food Permit and Permit Requirements.

1. **Mobile Food Vendor Annual Permit – Private Property.** Mobile food vendors are allowed to operate on a temporary basis for one year in one location with administrative approval of the Planning Department. After the one-year period has expired, the mobile food vendor shall to move to another location or may request one-year renewal from the Planning Department.

2. **Mobile Food Vendor Permit Requirements – Private Property.** All mobile food vendors located on private property shall meet the following requirements and submittals prior to approval.

   a. Each application for a permit to conduct a mobile food vendor business on private property shall be accompanied with a permit fee of $150.00. Permits issued after June 30th ~~September 30th~~ shall be accompanied with a permit fee of $75.00. Mobile food vendor permits shall be issued to the owner of the mobile food vendor vehicle. All permits shall expire December 31 ~~March 31st~~.

   b. Submit name, address, contact information and signature of both the property owner and the mobile food vendor requesting to locate on private property.

   c. Submit written permission, signed by the property owner or legal representative of record, stating that the mobile food vendor is permitted to operate on the subject property for a specified period of time.

   d. The mobile food vendor has the responsibility to dispose of all wastes in accordance with all applicable laws. Mobile food vendors are not permitted to dispose of their trash in public trash receptacles.

   e. The permit issued to a mobile food vendor shall not be transferrable to another owner or operator without a new application submitted and approved by the city.

   f. The mobile food vendor permit issued shall be conspicuously displayed at all times during the operation of the mobile vending business.

g. Mobile food vendors shall maintain compliance with parking lot requirements for the existing businesses. The use of parking for a mobile food vendor may not reduce the number of spaces below the minimum required for other uses occurring on the property.

h. Verification that the applicant is registered with the Arkansas Department of Finance and Administration.

3. **Temporary Buildings – Private Property.** A temporary building can be used on private property to vend edible foods. A permit from the city building official is required for all temporary buildings. All temporary buildings must comply with the Arkansas Fire Prevention Code. Permits for temporary buildings are limited to 180 days unless a time extension is granted by the City Building Official. A temporary building must also comply with the requirements of this Chapter.

4. **Mobile Food Vendor Transfer Option – Private Property.** Within the permit period, mobile food vendors on private property may transfer to another location that allows mobile food vending. Each transfer request shall be accompanied with an application to the Planning Department and a permit and processing fee of $40.00.

5. **Mobile Food Vendor on Multiple Locations – Private Property.** Mobile food vendors are allowed to operate on a temporary basis on multiple locations after meeting the following conditions:

   a. The applicant has submitted an application to the Planning Department accompanied with permit and processing fee of $200.00.

   b. The property owner for each location must provide a written statement giving the mobile food vendor permission to operate on the property.

   c. The mobile food vendor has the responsibility to dispose of all wastes in accordance with all applicable laws. Mobile food vendors are not permitted to dispose of their trash in public trash receptacles.

6. **Renewal Requirements – Private Property**. Mobile vendors requesting a one-year renewal to stay in the same location shall comply with the following:

   a. Applicant shall submit a renewal request on a form provided by the Planning Department.

~~b.~~ Applicant shall provide verification that the mobile food vendor has a valid sales tax permit registered with the Arkansas Department of Finance and Administration.

c. The Director or his designee shall review each application for renewal, and upon determining that the applicant is in full compliance with the provisions of these regulations, shall issue a new permit.

d. Planning Commission approval shall be required for all mobile food vendors who have received formal enforcement actions from the city.

e. Payment of a $150.00 permit fee.

F. Littering and Trash Removal.

1. Mobile food vendors shall keep the sidewalks, roadways, property where the vendor is located and other locations adjacent to their vending site clean and free of debris and refuse generated from the operation of their business.

2. Mobile food vendors shall provide a receptacle for litter that shall be maintained and emptied regularly.

G. Prohibited Conduct.

No person authorized to engage in the business of mobile food vending under these regulations shall do any of the following:

1. Locate in any residential zoning district.

2. Locate within a site triangle described as the area delineated by a distance of twenty-five (25) feet along the intersecting property lines, beginning at a property corner point and extending twenty-five (25) feet in both directions away from the corner point of an intersection and then connecting the terminus points by a line to form the triangular area.

3. No mobile food vendor shall sell or vend from his/her vehicle within 300 feet of a public or private school property while school is in session and one hour before and after school is in session; classes or school related events, except when authorized in writing by the school.

4. Unduly obstruct pedestrian or motor vehicle traffic flow, except a reasonable time to load and unload the mobile food vendor vehicle.

5. Obstruct traffic signals or regulatory signs.

6. Stop, stand or park any mobile food vendor upon any street for the purpose of selling during the hours when parking, stopping and standing have been prohibited by signs or curb markings.

7. Leave any mobile food vehicle in a public street right-of-way overnight.

8. Sounds projecting from the mobile food vendor that violate Article II – Noise regulations of the Fort Smith Code of Ordinances.

9. Conducting the business in such a way that would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.

10. Use or install any lighting that does not comply with Section 27-602-5 Commercial and Outdoor Lighting requirements of the Unified Development Ordinance.

11. Run hoses, cords, or other apparatus across a pedestrian pathway or sidewalk.

12. Utilize any portion of a public sidewalk or public right-of-way where mobile food vending is not allowed or authorized.

13. Remove the wheels from a mobile food vehicle. The mobile food vehicle shall not be otherwise be rendered immobile such as being placed on blocks, railroad, ties, etc.

H. Revocation of Permit.

A license issued pursuant to this chapter may be revoked, in writing, by the Director or his designee for any of the following reasons:

1. Any fraud, misrepresentation or false statement contained in the application for license;

2. Any fraud, misrepresentation or false statement made in connection with selling of products;

3. Any violation of this chapter;

4. Conducting the business license under this chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

I. Appeal.

Appeals to the Director's decision relating to this Chapter shall be made to the Planning Commission concerning the issuance of a license or revocation of a license pertaining to this Chapter.

J. Appeals of Administrative Determinations.

The Planning Commission shall hear appeals from the Director's decision in respect to the enforcement and application of this Chapter, and may affirm or reserve in whole or in part the decision of the Director.

1. Process. Any person, officer of the City, or other governmental agency not in agreement with a decision made by the director may appeal the decision within 10 (ten) ~~30~~ days of the decision by filing with the Director a notice of appeal along with payment of the required appeal fee. The filing shall specify the reason for the appeal. The Director shall then transmit to the Planning Commission all the information on the details of the decision and reason for the appeal. This shall be done in advance of the next regularly scheduled meeting. ~~that is more than 30 days from the date of the appeal.~~

2. Stay. An appeal puts all processing of applications on hold until the appeal process is completed.

3. Hearing. The Planning Commission shall schedule a reasonable time for the hearing of the appeal or any other matter referred to it. Notice shall be published one (1) time in a local newspaper fifteen (15) days before the public hearing.

4. Action. In exercising its powers, the Planning Commission, in conformity with the provisions of law, may reserve or affirm, wholly or in part, or may modify the order, requirement, decision, or determination.

5. Appeals. Appeals from the decision of the Planning Commission shall be made to the Board of Directors within ten (10) days of the Planning Commission's decision.

K. Forfeiture of Fee. If the City revokes a mobile vending permit, the fee already paid for the permit shall be forfeited.